

**MINUTES
of the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**October 3-5, 2007
Pueblo of Cochiti, New Mexico
Santa Fe, New Mexico
Pueblo of San Felipe, New Mexico**

The fifth meeting of the Indian Affairs Committee (IAC) for the 2007 interim was called to order by Representative James Roger Madalena, co-chair, at 10:29 a.m. in the meeting room of the community center at the Pueblo of Cochiti.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair (10/3, 10/5)
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran (10/4, 10/5)
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom (10/4)
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Gloria C. Vaughn

Absent

Rep. Justine Fox-Young
Rep. Manuel G. Herrera
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro (10/4)
Rep. Ernest H. Chavez
Rep. Ben Lujan (10/4, 10/5)
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. David Ulibarri

Sen. Ben D. Altamirano
Rep. Nick L. Salazar
Sen. William E. Sharer

Other Legislators in Attendance

Rep. Henry Kiki Saavedra (10/4)

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Chase Van Gorder
Jennie Lusk

Larry Matlock
Regis Pecos, Assistant to the Speaker

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Wednesday, October 3 — Pueblo of Cochiti

Governor Ray Trujillo, Pueblo of Cochiti, gave an introduction, after which committee members, staff and the audience introduced themselves. He was joined by Lieutenant Governor Vernon Garcia. Governor Trujillo yielded the microphone to Regis Pecos, assistant to the speaker and former governor of the Pueblo of Cochiti. Mr. Pecos gave an overview of the history of the Cochiti lands. He explained that Cochiti Lake, one of the largest man-made lakes in the world, was forced upon the Cochiti people by the Army Corps of Engineers and the Department of Reclamation. The lake, which covers one of the pueblo's most revered places of worship, was part of an experiment in private investment on reservations. The original economic development model included plans for a community of 40,000 people by taking almost half of the Cochiti homelands. The lease for the development was for 99 years, and when the lease is up, the homes and land will revert to tribal ownership. After 15 years of litigation to hold the federal government liable for the loss of agricultural lands and cultural sites, the Cochiti people prevailed. The lawsuit resulted in money to be invested to reduce the higher water table caused by seepage from the dam. When the original developers filed for bankruptcy, the Bureau of Indian Affairs (BIA) was required to seek another developer. The Cochiti tribe created its own development corporation, won the contract and decreased the scope of the development from 8,000 acres to 1,000. Instead of using economic development to exploit the reservations, the Cochiti people intend to use it to support their core values, including their language and culture.

Upcoming capital outlay projects include a new health and wellness center, which will cost approximately \$1.2 million. There is a \$200,000 to \$250,000 shortfall, which the tribe will try to make up during the 2008 legislative session. The tribe's second priority is renovation of the multiuse facility. Copies of the tribe's priorities are included in a handout in the meeting file. One problem facing the tribe is the cut in funding for the Indian Health Service (IHS).

Tribal Infrastructure Board

Benny Shendo, secretary of Indian affairs, and Rebecca Martinez, capital outlay manager for the Indian Affairs Department (IAD), presented this year's projects proposed by the Tribal Infrastructure Board for funding through the Tribal Infrastructure Project Fund. Twenty projects worth a total of \$16,689,000 are on the list, which is included in the meeting file. While discussing reverting funds for incomplete capital outlay projects, Mr. Van Gorder pointed out that the legislature had added a section to the capital outlay bill that sent reverted funds to the Tribal Infrastructure Project Fund instead of reverting to the general fund so that money for

projects in Indian country would remain available for use in Indian country. Although a bill to make that reversion permanent was introduced by Representative Lundstrom, the bill did not pass, stalling in the Senate Indian Affairs Committee. Mr. Van Gorder suggested that similar language could be added to the 2008 capital outlay bill and indicated that Speaker Lujan had agreed to do that in past years. Secretary Shendo explained the difference between the Tribal Infrastructure Trust Fund and the Tribal Infrastructure Project Fund, noting that the trust fund remains empty. He is currently requesting a \$10 million appropriation for each fund.

Senator Rainaldi expressed his objection to having his capital outlay money reverting to the Tribal Infrastructure Project Fund because that took the funds out of his control and out of his district. Senator Lovejoy asked about the criteria for the projects to be funded through the Tribal Infrastructure Project Fund. Secretary Shendo answered that project readiness and the capacity to leverage funding are the most important criteria considered for funding projects from the Tribal Infrastructure Project Fund.

The committee recessed for lunch and returned at 2:22 p.m.

Assistance to Disabled Persons — Status Update

Ray Espinoza, director of the Office of Indian Elder Affairs for the Aging and Long-Term Services Department (ALTSD), was joined by Joseph Ray, consultant for the Native American Outreach Program of ALTSD. Mr. Espinoza explained that the Office of Indian Elder Affairs was created in 2004 as a "one-man show", which is now composed of himself, Rachel Rose as administrator and a secretary. The two primary needs of the segment of the population he serves are housing and in-home health care. Because clients at ALTSD are frail and often lack a way of leaving their homes, their needs go unmet and their voices unheard. Although New Mexico is a leader when it comes to elder care and is recognized at a national level, funding is not keeping pace with needs. New Mexico's demographics are shifting, and the percentage of people over the age of 55 will change the state's national ranking from thirty-ninth to fourth. The population of senior citizens will double in 15 years. Funding needs to double just to keep up with needs, and more than that is needed to deal with the next wave of senior citizens. Mr. Espinoza requested additional funding to expand services this year, especially for in-home care. In-home care is cheaper than nursing home care and is preferable to the vast majority of Indian elders. He said that the amount of capital outlay reversions for his programs were very small, \$2,400 last year and \$2,000 the year before that. Bureaucracy issues still plague the capital outlay projects on the Navajo Nation, causing reversions of \$100,000 per year. Mr. Espinoza provided the committee with a list of prioritized projects, which is in the meeting file.

As Mr. Espinoza answered the committee's questions, the continuing issue of the complexity of the Navajo Nation capital outlay was analyzed. Representative Begaye said that projects were often lost at the Navajo Nation unless someone hand-carried the documents from office to office, and that when chapters successfully submitted their documents, their requests were often omitted from the final list for political reasons. Mr. Espinoza said that he worked to help the tribes to increase their capacity and knowledge of the process. By appropriating more

money for the next fiscal year, the legislature could help to hire a trainer to travel on-site to provide and help develop the technical expertise necessary to qualify for funding. Representative Begaye requested a list of reversions from the past five years.

Senator Ulibarri asked about the different systems for the management of federal and state funds. Mr. Espinoza responded that because there is a government-to-government relationship between the federal government and the Navajo Nation, the federal authorities refuse to disclose the reversion rate for federal funds. Knowing the Navajo Nation's complex and inefficient process for approving capital outlay money, Mr. Espinoza thinks there must be significant undisclosed reversions at the federal level as well. Senator Rainaldi moved that the committee write a letter to the secretary of aging and long-term services asking for the dollar amounts that reverted. Representative Vaughn seconded. The motion passed with no opposition.

Mr. Ray spoke about his goal of establishing independent living centers in the Pueblos of San Felipe and Laguna, saying that \$250,000 in recurring funds would be needed. Commitments are in place for office space in both pueblos. The requested appropriation will act as seed money, allowing him to apply for other funds. The intent is for Native Americans, especially those with disabilities, to run the centers, which would provide social as well as economic benefits. Mr. Ray asked for help utilizing the capital outlay money that was authorized during the last legislative session. He repeated Mr. Espinoza's observation that those he serves prefer to remain in independent living situations at home, but that ramps, grab bars and newer bathroom designs and upgrades would be necessary. David Riley, a single parent whose daughter has visual, speech and hearing difficulties, urged the committee to provide better access to services by providing \$1 million for a facility in the Pueblo of Laguna.

Representative Begaye moved that the committee write a letter to Patrick Lopez, with a copy to Laverne Wyaco and the attorneys of the Navajo Nation, to review and streamline the ways the Navajo Nation channels money from New Mexico to its chapters and members. The letter should request President Joe Shirley's approval to allow the requests to skip the 874 review process. Senator Rainaldi seconded, and with none opposed, the motion passed.

Native American Workforce Training

Betty Sparrow Doris, secretary of the Workforce Solutions Department (WSD), and Deputy Secretary Raymond Gonzales gave a presentation on the services that have been provided by the state in the past. She explained that her office had been created during the 2007 legislative session by a bill that merged the Labor Department and the Office of Workforce Training and Development. The department tries to provide meaningful services to job seekers and individuals who are incumbent workers who want to advance or change jobs. Of those that applied for services, 5,581 were placed into full-time employment. She hopes to initiate dialogue with the Navajo Nation to increase and improve service delivery, as well as increasing the leverage of money they receive from WSD. Also present were Vince Baca, director of strategic operations, and Paula Garcia, who works with staff development and also serves as the legislative liaison.

Senator Rainaldi questioned the authorization of unemployment benefits to seasonal workers, asking for a written response from Secretary Doris. Co-chair Madalena asked the secretary to examine the services being provided to the pueblos.

Following the presentation regarding Native American workshop training, the meeting recessed at 4:37 p.m.

Thursday, October 4 — State Capitol, Santa Fe

The meeting was called to order by Representative Begaye at the request of Co-chair Madalena at 9:19 a.m. in Room 307 at the State Capitol. The committee, staff and audience members introduced themselves.

Tribal Emergency Management

Lieutenant Curtis Williams, emergency manager for the Mescalero Apache Fire Department, requested funding for tribal emergency management offices for all 22 tribes and pueblos. He asked for \$185,000 per tribal entity, for a total of \$4.07 million. His handout, which he read in its entirety, is in the meeting file. He said that tribal emergency responders are so busy doing their jobs that they do not have the time or staff to commit to long-range planning and coordination efforts. Difficulties include lack of cooperation from state, county and local municipalities because the federal government is supposed to be responsible for providing these services to the tribes. When other governmental entities choose to partner with tribal emergency managers, the issue of sovereignty is a complicating factor. Tribal entities also have a difficult time getting access to funding set aside by the U.S. Department of Homeland Security because they do not have the time and expertise necessary to apply. In addition, tribal emergency responders frequently have other jobs they perform for the tribe, so they are not sitting in an office waiting to respond. A tribal liaison officer would help to free up time for higher-level emergency responders to engage in planning activities. Mel Tafoya, director of special projects and emergency management for the Pueblo of Santa Clara, and Richard Martinez, assistant director of special projects for the Pueblo of Santa Clara, presented with Lieutenant Williams.

Representative Begaye asked for remedies to these problems to be part of the agenda for the meeting of the IAC on November 7, 2007. Senator Ryan asked if any federal money had been returned. Lieutenant Williams responded that \$5 million had been returned the previous year. Senator Ryan moved that the committee write a letter to the U.S. Department of Homeland Security to make exceptions to the rules to exclude tribal entities, allowing them to apply for funding for salaries and other resources. Speaker Lujan seconded the motion. Senator Lovejoy amended the motion to include a letter to the New Mexican congressional delegation requesting direct funding for tribal emergency responders. The amended motion passed with no opposition.

Native American Health Care Improvement Act

Speaker Lujan and his assistant, Mr. Pecos, gave the committee an overview of the Native American Health Care Improvement Act that will be introduced during the 2008 legislative

session and asked for the committee's support. Although the bill is not intended to replace the federal government's responsibility to Native Americans, it will establish a framework to address health care disparities. Included in those disparities are the lack of behavioral health care and the lack of substance abuse treatment facilities. Mr. Pecos intends to include two juvenile treatment facilities in the bill. The federal government does not consider itself responsible for Native Americans who live off-reservation. The bill would have to accommodate the needs of "urban Indians" or "off-reservation Indians". Speaker Lujan said that \$10 or \$15 million would be necessary to address the disparities.

Senator Rainaldi moved that the committee write a letter to the IHS and the secretary of the interior to remind them of their responsibilities to Native Americans, especially the lack of funding and the great need present in that population. Co-chair Madalena recommended that the letter start with an acknowledgment of the authorization, encouraging them to fund it as well. Representative Rodella seconded the motion, which passed with no opposition.

Lieutenant Governor Alvin Warren from the Pueblo of Santa Clara told the committee that his pueblo had completed a community health assessment, funded by the Department of Health and the McCune Foundation. The 80-page document is the first time that all relevant data are available in one location. It identified alcohol and substance abuse treatment as the community's most critical need. The Pueblo of Santa Clara is one of only eight or nine tribes to have a completed assessment. The Navajo Nation and the Pueblo of San Felipe also completed an assessment.

Minutes

At the conclusion of the presentation, Co-chair Madalena moved to adopt the minutes of the September 2007 meeting of the IAC. The motion was seconded and passed with no opposition.

Collaborative Efforts with Tribes Regarding Child Welfare Issues

Dorian Dodson, secretary of children, youth and families, was joined at the presenters' table by Bernie Teba and Becky Valentine. Governor Richardson issued an executive order directing agencies to work with tribal entities on a consultation policy. Secretary Dodson interpreted it to mean three things: 1) it is incumbent on the Children, Youth and Families Department (CYFD) to provide the very best services; 2) CYFD must be a respectful partner in assisting tribes to develop their own delivery systems; and 3) CYFD must collaborate on issues of importance. Her handout, which she followed closely in her presentation, is in the meeting file.

The committee recessed for lunch and returned at 1:08 p.m.

The Changing Energy Era in New Mexico

Art Hull, governmental affairs specialist for Public Service Company of New Mexico (PNM), and Cathy Newby, tribal relations administrator for PNM, presented PNM's need to

increase rates by 16 or 17%. Their handout, "Challenges of the Changing Energy Era", is included in the meeting file. PNM currently has a rate case before the Public Regulation Commission (PRC) asking for permission to increase rates. The last rate case, almost five years ago, actually requested permission to decrease rates, Mr. Hull said. The state's demands for energy continue to increase, especially with the popularity of refrigerated air conditioning in new, larger homes. At the same time that demand has increased, the cost of oil and natural gas has also increased. The PRC also requires at least 10% of PNM's electricity to be derived from renewable sources. PNM needs to invest \$300 to \$400 million in new coal-fired power plants and wind farms in order to keep up with demand.

Senator Carraro complained about the cost of electricity for his constituents, especially with the large bonuses paid to PNM executives. Mr. Hull explained that PNM had managed to keep rates low by selling power "off-system" or out of state, but that this is now no longer sufficient in today's market. He defended the pay for PNM's top five executives, saying that in a competitive market, they could easily earn more money by taking their expertise to another company. PNM does a survey every year on the amount of their pay, which remains below the national average. Senator Lovejoy asked about the status of the Pueblo of Santo Domingo substation. Ms. Newby responded that the project is progressing. The substation will help to prevent outages at the Pueblo of Santo Domingo's gas station and convenience store. Senator Martinez asked how much PNM collects and disburses for the "Good Neighbor" Fund. Mr. Hull responded that the shareholders match donations from customers for a total of \$700,000 each year, all of which is paid out and administered by the Salvation Army to those in need in a process similar to the Low Income Home Energy Assistance Program (LIHEAP).

New Domestic Violence Initiatives — Status Update

Sharon Pino, domestic violence czar for the executive branch, gave an update on domestic violence activities, aided by deputy secretary of the IAD, Teresa Gomez. Ms. Pino's handout showed that the governor's two domestic violence initiatives for 2008 are increased penalties for domestic violence offenses against intimate partners and an amendment to the Domestic Violence Offender Treatment Fund, which would expand the definition of a domestic violence offender. Ms. Pino's handout is in the meeting file. One-half of the \$225,000 from fiscal year 2007 appropriated to CYFD for domestic violence training and education went to the New Mexico Coalition Against Domestic Violence and the other half went to the Coalition to Stop Violence Against Native Women. Ms. Pino has been visiting the programs to see the challenges they face. The biggest of those is getting full faith and credit for enforcing orders of protection from out of state, and getting other states to enforce New Mexico's orders for protection. The State and Tribal Judicial Consortium is working on a cover sheet for these orders of protection to show that they are valid in other jurisdictions. CYFD's total budget for domestic violence funds and programs for fiscal year 2008 is over \$12 million. CYFD has contracts with 40 providers. Clients served in fiscal year 2007 include 6,498 adult victims/witnesses, 2,910 children victims/witnesses and 3,203 batterers or perpetrators.

An update on House Memorial 94, which requires a study of domestic violence against

Native American women, was presented by Amber Carillo of the Pueblo of Laguna. She said that tribal consultations took place on September 19, and the biggest issue is the administration of funds.

Representative Vaughn pointed out that New Mexico has a serious domestic violence problem and asked what is being done to protect senior citizens. Ms. Pino responded that the CYFD and the ALTSD are discussing a collaboration through existing funds to hire an elder abuse coordinator to collect data and come up with ways to help that population.

Following the presentation regarding domestic violence, the meeting recessed at 3:21 p.m.

Friday, October 5 — Pueblo of San Felipe

The meeting was called to order by Co-chair Madalena at 9:22 a.m. in the Hollywood Casino at the Pueblo of San Felipe. Governor Michael T. Sandoval offered an opening prayer, followed by introductions of the members and staff.

Governor Sandoval gave a brief history of the Pueblo of San Felipe, stressing the importance of using and preserving Keres, the pueblo's native language. The pueblo's conservative attitude toward its culture and language is one reason that so many young people still speak Keres first and English second. Once appointed by spiritual leaders, tribal council members serve life terms, while governors serve one-year terms. The all-male tribal council meets twice a month. Bruce Garcia, tribal administrator, explained that he makes sure that community members have good water and wastewater infrastructure. He enjoys working with health and education, as well as services to the elderly. One success in the health care arena has been to bring in more than 30 staff members to work in the community so their people do not have to travel to Albuquerque or Santa Fe for treatment. The pueblo still needs to develop a more extensive law enforcement system and currently has only six officers. The pueblo is developing a contemporary court system along with other southern pueblos. Lieutenant Governor Joseph Sandoval introduced himself and welcomed the committee. Other Pueblo of San Felipe staff included Raymond Sanchez, Angel Edward, Judy Tenorio, Maxine Velasquez, Darlene Valencia and Dr. Charles Kaplan. Ted Garcia, a public administrator for the tribe, explained that it is seeking a stop on the Rail Runner's route. Mr. Garcia suggested formalizing the requirement for tribal consultation between the pueblo and the Department of Transportation. The \$.17 per gallon of tax charged for each gallon of gas at the pueblo's facility goes to pay off the wastewater treatment plant, which was built to create a system of regional wastewater rather than merely a series of individual septic tanks.

Dr. Kaplan presented the state of the tribe's educational resources, which include a new library, internet access for adults and youth, interlibrary loans, book clubs and GED classes. The pueblo has dedicated \$140,000 of tribal funds for post-secondary scholarships thus far. Dr. Kaplan said that 125 Pueblo of San Felipe students attend Bernalillo High School while 90 go to

the Santa Fe Indian School. He told the committee that every senior at Bernalillo High School was told to apply to the Community College of New Mexico, where acceptance is no problem. However, most were assigned to developmental programs, where tribal students risk using scholarship funds before getting into regular courses. Further, Bernalillo High School requires only 23 units for graduation, whereas other districts require 29. Even the best students at Bernalillo are not accepted at good schools because they do not have three years of science or four years of math prior to graduation. Preparation is a problem, he said, as is the "disconnect" between the schools and the pueblo, which results in the pueblo having no direct input into the curriculum for its children. Adequate academic counseling is not available for tribal students. Senator Rainaldi moved that the committee send a letter to the Public Education Department to make sure the students have the books needed to proceed and do better. Representative Vaughn seconded the motion, which passed with no objection.

Mark Simone, director of health for the pueblo, asked the committee members to encourage New Mexico's congressional delegation to override the recent veto of SCHIP funds. He stressed the need to maintain a community-based clinic. Senator Rainaldi moved that the committee send a letter to the proper parties concerning the disparity of funding in the 638 Public Law, requesting a response. Representative Vaughn seconded and the motion passed. Senator Lovejoy moved that the committee write a letter to Governor Richardson and the House Memorial 35 Committee to maintain the gas tax as it is. Senator Rainaldi seconded and the motion passed with no opposition.

Health Care Reform

Ronald Reid, Ph.D., tribal liaison for the New Mexico Department of Health, and Roxanne Spruce-Bly, chief executive officer of the New Mexico Native American Health Council, gave a presentation on the American Indian Health Advisory Committee. The committee consists of 15 voting members nominated by the All Indian Pueblo Council, the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe and designated off-reservation organizations within the state of New Mexico. So far, 10 members have been appointed. Executive Order 2005-004 requires executive state agencies to adopt tribal consultation plans with input from the 22 Indian tribes and pueblos. It was invoked for the first time for the "Health Coverage for New Mexicans" initiative. Dr. Reid's handout, "Native American Health", is in the meeting file.

Committee members discussed ways to ensure that other relevant bodies are made aware of the issue of universal health care coverage and of Speaker Lujan's Native American Health Care Improvement Act bill.

Adjournment

On a motion by Senator Rainaldi, seconded by Representative Vaughn, the committee adjourned at 12:50 p.m.